

FILED

DEC 8 1999

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

LARRY W. PROPPES, CLERK
COLUMBIA, S. C.

COLUMBIA DIVISION

ENTERED

DEC 9 1999

Donney Shawyn Council, #5049

)

C/A No.: 3:99-2306-6BC

Plaintiff,

)

v.

)

)

Henry F. Floyd; Patricia Gail Allexander;

)

Betty Ruth Council; William Joseph Allexander;

)

Furleasha Nasdack MacDaniells; and

)

James Taylor Henry Washington

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ORDER

)

Defendant.

)

This matter is before the court for review of the magistrate judge's report and recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02.

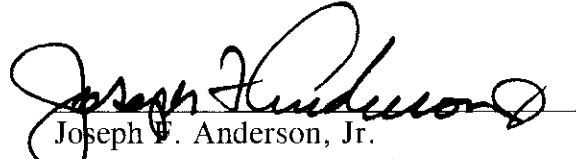
The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the report and recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the magistrate judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1).

The United States Magistrate Judge to whom this matter was referred has filed a detailed and comprehensive report and recommendation, suggesting that this action should be summarily dismissed. He also recommends that this case be deemed a strike pursuant to 28 U.S.C. § 1915(e)(2) and (g).

The plaintiff was apprised of his right to file objections to the report and recommendation and has failed to do so within the time limits prescribed by the rules for this court. Accordingly,

the report and recommendation is incorporated herein; this action is hereby dismissed without prejudice and without issuance and service of process; and this action is hereby deemed a strike for purposes of the so-called "Three Strikes" rule of 28 U.S.C. § 1915(e)(2) and (g).

IT IS SO ORDERED.


Joseph F. Anderson, Jr.
United States District Judge

December 8, 1999
Columbia, South Carolina